

**From:** Song Tan  
**To:** Microsoft ATR  
**Date:** 1/27/02 7:13pm  
**Subject:** Microsoft Settlement

I would like to comment on the Proposed Final Judgment in United States vs Microsoft.

I am not a lawyer. I am not a member of the computer industry. I am a U.S. citizen who is concerned about the proposed judgment because it fails to hold Microsoft accountable for its illegal monopoly now or in the future. Instead, I believe the proposed judgment provides a blueprint for Microsoft to maintain an illegal monopoly by obeying the letter of the Proposed Final Judgment, but not the spirit of the law.

I agree with the comments of Dan Kegel at  
<http://www.kegel.com/remedy/letter.html>

Here are specific problems I have with the Proposed Final Judgment:

1. Critical terms are defined so narrowly that it will be easy for Microsoft to continue its anticompetitive behavior while still obeying the Proposed Final Judgment. Examples of unnecessarily narrow definitions include "Application Programming Interfaces", "Microsoft Middleware", "Microsoft Middleware Product" and "Windows Operating System Product".
2. The Proposed Final Judgment fails to provide for future advancements in the industry. Microsoft's .NET plans will perpetuate its illegal monopoly and yet .NET is not adequately covered by the Proposed Final Judgement.
3. The Proposed Final Judgment does not provide an effective enforcement mechanism. It is strongly reminiscent of the 1994 consent decree in that Microsoft simply agrees to behave itself in the future. Microsoft has shown that it will either flaunt the rules in the settlement or find legal loopholes to achieve the same effect. Our society does not look kindly on repeat offenders, especially ones who blatantly flaunt the law. Why should Microsoft be any different?

Among the many important issues at stake here is the fundamental idea that a company that commits illegal actions should not benefit from those actions. The Proposed Final Judgment rewards Microsoft with the legal means to perpetuate its illegal monopoly. I am disturbed that the typical citizen will view the Proposed Final Judgment as evidence that big businesses can lobby our government into turning a blind eye towards illegal actions. (We've now seen the terrible consequences when a company abuses the public trust with the collapse

of Enron.) The remedies in the Microsoft case must "unfetter a market from anticompetitive conduct" and "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (Supreme Court Rulings quoted in section V.D of the Court of Appeals judgment). The Proposed Final Judgment fails to meet these criteria and should therefore be rejected.

Sincerely,

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(These comments are my own and do not necessarily reflect those of my employer).